IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 9 OF 2006

SHRI RAMNATH S.KAKODKER AND ANR., ...Appellants

Versus

SMT. KUNDA RAYA KURDIKER AND 10 ORS., ...Respondents

Mr. T. George, Advocate for the Appellants.

Coram:- A. P. LAVANDE, J.

Date:- 18th March, 2006

P.C.:

Heard Mr. George, learned counsel for the appellants.

2. By this appeal the appellants take exception to the Order dated 13th September, 2005 passed in Special Civil Suit No. 11/2005/A by Civil Judge S.D., Quepem, dismissing the application for injunction filed by the appellants who are the original plaintiffs. In the said suit the appellants sought temporary injunction against the Respondent No.10 to restrain him from carrying out mutation entries on the basis of the Sale Deed dated 26.11.2002 executed between the Respondents No.1 to 9 on one side and Respondents No.10 and 11 on the other side. The trial Court, after appreciating the materials placed on record, has passed the impugned order, dismissing the application.

3. Perusal of the impugned order, discloses that the trial Court upon correct appreciation of the principle on matters of injunction, has given a finding that the appellants had failed to establish prima facie case and, on the contrary, has stated that irreparable loss and injury will be caused to the respondents, more particularly respondents No.10 and 11 who have

purchased the said plots from the respondents No.1 to 9. The trial Court, further observed that the balance of convenience was in favour of the respondents. The findings recorded by the trial Court cannot be said to be perverse so as to warrant interference in appeal by this Court. It is well settled that appeal against the order granting or refusing injunction is an appeal on the principle as held by the Apex Court in the case of Wander Ltd. and another v. Antox India P. Ltd. reported in 1990 (Supp) SCC 727. Having regard to the principle laid down by the Apex Court in the said case, I do not find any ground to interfere in this appeal.

Consequently the appeal stands dismissed in limine.

A. P. LAVANDE, J.

sl.